ST 96-41
Tax Type: SALES TAX
Issue: Books and Records Insufficient

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

DEPARTMENT OF REVENUE	)	
OF THE STATE OF ILLINOIS	)	
	)	No.
v.	)	IBT
	)	IBT
TAXPAYER A	)	
TAXPAYER B,	)	
Taxpayer(s)	)	

RECOMMENDATION FOR DISPOSITION

Appearances: Martin L. Schwartz, for taxpayers.

Synopsis:

This matter came on for hearing pursuant to the taxpayer's timely protest of Notice of Tax Liability XXXXX, issued November 29, 1994, Notice of Tax Liability XXXXX, issued December 9, 1994, and Notice of Tax Liability XXXXX, issued December 9, 1994.

Finding of Fact:

1.   The Department established a *prima facie* case by first calling as a witness Mr. Benjamin Jimenez, a revenue auditor for the Illinois Department of Revenue.

Mr. Jimenez testified that the first of the foregoing Notices of Tax Liability was issued against TAXPAYER B, and the second and third NTL's were issued against TAXPAYER A. He further testified that he had reviewed the Departments records in this case and that he had ascertained from the records

that the two NTL's issued on December 9, 1994 against TAXPAYER A, had both been cancelled, and that only the NTL issued on November 9, 1994, against TAXPAYER B, and marked Department of Revenue Ex. No. 1, was still outstanding. Tr. p. 7. Department of Revenue Ex. No. 1 was thereafter admitted into evidence. Tr. p. 11..

2. The taxpayer, TAXPAYER B offered no viable, probative evidence to overcome the Department's *prima facie* case of tax liability against TAXPAYER B.

Conclusions of Law and Recommendation:

On Examination of the record established, TAXPAYER B has failed to demonstrate by the presentation of testimony, or through exhibits or argument, evidence sufficient to overcome the Department's *prima facie* case of tax liability, and the Department's case against TAXPAYER B stands unrebutted.

I recommend that the Notice of Tax liability issued on November 9, 1994 against TAXPAYER B be affirmed in its entirety.

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Administrative Law Judge